

ATTACHMENT A – RESOLUTION NO. 2016-0043

GUIDELINES TO ADMINISTER EMERGENCY DRINKING WATER FUNDING
AUTHORIZED BY RESOLUTION NO. 2016-0039
(EMERGENCY DRINKING WATER FUNDING GUIDELINES)

EMERGENCY DRINKING WATER FUNDING GUIDELINES

These Emergency Drinking Water Funding Guidelines (Guidelines) apply to the State Water Pollution Cleanup and Abatement Account (CAA) funds that have been allocated pursuant to the Budget Act of 2016 and State Water Resources Control Board (State Water Board) [Resolution No. 2016-0039](#). The intent of these Guidelines is to ensure that the funds allocated to address drinking water emergencies are provided to those communities in greatest need of State of California (State) funds due to limitations or lack of access to safe, reliable, and affordable drinking water. These Guidelines may be periodically updated to ensure funding is going to those communities in greatest need and to ensure the funding is being provided in an expedient manner.

APPLICABLE AUTHORITY:

1. Senate Bill 826 (Stats. 2016, ch. 23), the Budget Act of 2016, includes Item 3940-101-0679, which appropriates \$15 million from the CAA to the State Water Board to “address drought-related drinking water emergencies or threatened emergencies, without regard to whether the need for emergency drinking water is as a result of the discharge of waste.”
2. In State Water Board Resolution No. 2016-0039, pursuant to Article 3 (commencing with Section 13440) of Chapter 6 of Division 7 of the Water Code (WC), the State Water Board approved the allocation of an additional \$4 million from the CAA to provide interim emergency drinking water to disadvantaged communities with contaminated drinking water supplies.

DEFINITIONS:

“Acceptable result” means a project, when completed, provides for the most immediate and reliable supply of domestic water for the duration of the drinking water emergency or threatened emergency being addressed.

“Community water system” means a public water system that serves at least 15 service connections used by yearlong residents or regularly serves at least 25 yearlong residents of the area served by the system (Health and Safety Code (H&SC) Section 116275(i)).

“Contamination” means any impairment of the quality of water to a degree which, in the judgment of the State Water Board, may have an adverse effect on the health of persons. Contamination may be caused by any physical, chemical, biological, or radiological substance or matter in water. A water supply that is subject to contamination is “contaminated.”

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“Direct expenditure” means an expenditure of funds by the State Water Board directly to a vendor or contractor for the benefit of an eligible recipient.

“Disadvantaged community” means a community with an annual median household income that is less than 80 percent of the statewide annual median household income (WC) Section 79505.5). In the interest of addressing the drinking water emergency in as expeditious manner as possible, the State Water Board staff may utilize reasonable substitute methods to determine a community’s annual median household income.

“Domestic water supply” means a safe, dependable, and reliable supply of water for human consumption.

“Drought” means the period of abnormally dry weather sufficiently prolonged to cause a serious hydrological imbalance and potential severe domestic water shortages. For the purposes of these guidelines, drought includes, but is not limited to, periods of time covered by the Governor’s declaration of a drought emergency either statewide or countywide.

“Drinking water emergency” means a severe domestic water supply outage caused by the drought or contamination, and experienced by an eligible recipient or a person represented by an eligible recipient, that requires immediate action to avoid or mitigate risk to public health and safety.

“Emergency funding” means funding provided under these Guidelines as grants or direct expenditures.

“Human consumption” means the use of water for drinking, bathing or showering, hand washing, oral hygiene, or cooking, including, but not limited to, preparing food and washing dishes. (H&SC Section 116275(e).)

“Initial operation costs” means costs incurred for start-up and testing of project facilities and components to assure such facilities and components are properly operational; such costs do not include costs of operation or maintenance incurred subsequent to placing the facilities or components into service.

“Project” means activities determined by the State Water Board as necessary to resolve or mitigate one or more drinking water emergency or threatened emergency.

“Public water system” means a system for the provision of water for human consumption through pipes or other constructed conveyances that has 15 or more service connections or regularly serves at least 25 individuals daily at least 60 days out of the year. A public water system includes the following: (1) Any collection, treatment, storage, and distribution facilities under control of the operator of the system that are

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used primarily in connection with the system. (2) Any collection or pretreatment storage facilities not under the control of the operator that are used primarily in connection with the system. (3) Any water system that treats water on behalf of one or more public water systems for the purpose of rendering it safe for human consumption (H&SC Section 116275(h)).

“State Water Board” is the State Water Resources Control Board and refers to the board itself or the State Water Board official(s) delegated authority by the board to administer funding under these Guidelines.

“Threatened emergency” means an imminent threat of a severe domestic water outage caused by the drought or contamination, and experienced by an eligible recipient or a person represented by an eligible recipient, that requires immediate action to avoid or mitigate risk to public health and safety.

“Water outage” or “water supply outage” means prolonged or repeated inability to provide a supply of domestic water that is safe for human consumption and sufficient to meet average daily demand or inability to provide water at adequate pressure as determined by California’s applicable waterworks standards.

ELIGIBLE RECIPIENTS

An entity is eligible to apply for funding if that entity has authority to undertake the activity for which it seeks moneys and the entity is any of the following:

(1) A public agency that serves a disadvantaged community. The Executive Director of the State Water Board may, at his or her discretion and on a case-by-case basis, deem a public agency eligible for funding in order to assist a community that is not a disadvantaged community but is experiencing a drought-related drinking water emergency.

(2) A tribal government that is on the California Tribal Consultation List maintained by the Native American Heritage Commission and is a disadvantaged community that agrees to waive tribal sovereign immunity for the explicit purpose of regulation by the state board pursuant to the Porter-Cologne Water Quality Control Act [WC Division 7];

(3) A not-for-profit organization serving a disadvantaged community; or

(4) A community water system that serves a disadvantaged community.

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MAXIMUM FUNDING:

An eligible recipient may request emergency funding for only one (1) project per drinking water emergency or threatened emergency. Emergency funding will generally be limited to \$500,000 per project, including both grant and direct expenditures, unless the State Water Board determines that the size of the community and nature of the emergency require a greater expenditure of funds or a combination of funding from different agencies to adequately address the emergency. If the State Water Board approves a request for emergency funding, it may determine to provide the emergency funding as a grant to the eligible recipient, or the State Water Board may determine to expend the emergency funding on behalf of the eligible recipient, or some combination thereof.

An emergency project that is funded by the State Water Board may be via written or oral agreements. Of the total amount of emergency funding provided to or on behalf of an eligible recipient, an oral agreement is limited to a maximum expenditure of \$50,000. However, if an emergency oral agreement is approved and at a later date it is determined that the recipient and/or the funded project is not eligible under these Guidelines, the recipient of the funding shall be required to repay the grant funding to the State Water Board.

OTHER FUNDS:

The State Water Board will make every effort to access, and require an eligible recipient to access, other funds available for a project to address drinking water emergencies or threatened emergencies, including other state, federal or local funds, prior to using the emergency funding made available under these Guidelines. The State Water Board may partially fund a proposed project with Drinking Water Emergency funds and require the eligible recipient to use their own funds or apply for other applicable State Water Board funds to complete the project.

REQUESTS FOR FUNDING:

There are several ways for an eligible recipient to initiate a request for emergency funding:

1) An eligible recipient, or a local Health Officer or the local Director of Environmental Health acting on behalf of an eligible recipient may contact the local State Water Board, Division of Drinking Water District Office (the “District Office”). The location and contact information for the District Offices can be found at the following link:

http://www.waterboards.ca.gov/drinking_water/programs/documents/ddwem/DDWdistrictofficesmap.pdf;

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2) Fill out an application via Financial Assistance Application Submittal Tool (FAAST) (<https://faast.waterboards.ca.gov/>) or hard copy (see http://www.waterboards.ca.gov/water_issues/programs/grants_loans/caa/dw_droughtfund/); or

3) Contact the State Water Board’s Division of Financial Assistance at: (916) 319-9066 or send an email to: DFA-CAA-DW-DroughtFund@waterboards.ca.gov.

EMERGENCY FUNDING PRIORITIZATION:

Subject to the availability of funding under these Guidelines, the State Water Board will give priority to requests for emergency funding where water outages are most imminent and pose the greatest threat to public health and safety, regardless of when the request for emergency funding is received by the State Water Board. In determining priorities for funding projects, the State Water Board will also consider the applicant’s access to or ability to qualify for alternative funding sources. Funding requests may be submitted on a continuing basis.

PROJECT ELIGIBILITY CRITERIA:

Eligible project activities include, but are not limited to, the following:

1. Provision of interim alternate water supplies, including: purchases of temporary transfer water, hauled water, water vending machines, and bottled water.
2. Improvements or repairs to existing water systems necessary to provide other sources of safe drinking water, including but not limited to:
 - A. Establishing connection(s) to an adjacent public water system;
 - B. Replacement wells;
 - C. Well rehabilitation;
 - D. Treatment systems;
 - E. Rented, borrowed or purchased equipment;
 - F. Design, installation and initial operation costs for an acceptable result.

Ineligible projects for this funding include, but are not limited to:

1. Projects that are not addressing a drinking water emergency or threatened emergency, or projects that can be funded through other means;

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2. Demonstration or pilot projects;
3. Requests to fund fire flows and fire hydrants;
4. Requests to subsidize or offset increases in water rates;
5. Projects for which there is a responsible party for the contamination and the responsible party has a legal obligation and financial capacity to meet the emergency drinking water need. This does not preclude funding where the responsible party is recalcitrant, action must be taken promptly to address a serious public health problem, and adequate provision is made to recover from the responsible party any expenditures made from the CAA.

Factors which, at a minimum, will be considered by the State Water Board in determining funding under these Guidelines include the following:

1. The severity of the drinking water emergency or threatened emergency;
2. Whether there is an actual documented water outage, and the duration and extent of the outage(s);
3. Whether the threatened emergency is documented with an estimated timeframe of when a water outage is likely to occur;
4. Whether the drinking water emergency or threatened emergency is, or is expected to be, acute (of short term duration) or chronic (long term duration);
5. Any drinking water drought response actions taken by the eligible recipient's Local Health Officer or the local Director of Environmental Health;
6. Whether the eligible recipient has implemented mandatory water conservation measures, and whether additional conservation measures are possible;
7. Whether the proposed project will provide an acceptable result;
8. Whether the proposed project is cost-effective, i.e., the project provides an acceptable result at a reasonable cost when considering the cost per person benefiting or the cost per service connection established;

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9. Whether the eligible recipient has a reasonable project schedule and spending plan to complete the project in a timely and expeditious manner to provide an acceptable result;
10. Whether there are other available sources of funds to resolve the drinking water emergency or threatened emergency for which funds are requested;
11. Whether the eligible recipient has any available reserves to fund the Project in part or whole, including reserves that may have been dedicated to other future uses;
12. Whether the eligible recipient has submitted an application for funding for a permanent solution to address the drinking water emergency or threatened emergency; and
13. Whether a private entity applying for funding can satisfactorily demonstrate, if applicable, that it and its owners and investors will not be able to profit through the receipt of funding administered under these Guidelines.

Note that District Office staff will assist with some of these determinations as part of the technical assistance provided.

The State Water Board has no duty to disburse already approved emergency funding unless and until the eligible recipient demonstrates to the State Water Board that the project is fully funded, and has submitted a resolution of its governing body identifying the person(s) authorized to sign a funding agreement.

Eligible recipients awarded a grant under these Guidelines must agree to complete the project in a timely and expeditious manner and shall agree to accept other sources of available funding in addition to, or in lieu of emergency funding as determined by the State Water Board. The State Water Board reserves the right to cancel awarded grants if: (1) the grant recipients fails to comply with the terms of the grant agreement, (2) the grant recipients fail to expend funds in accordance with their spending plan, or (3) it is demonstrated to the State Water Board that funds are not needed to address a drinking water emergency or threatened emergency.

FUNDING RECOMMENDATION PROCESS:

Requests for emergency funding from eligible recipients received by the State Water Board's District Offices and the Division of Financial Assistance will be reviewed for determination of eligibility for emergency funding and prioritization of such funding. The

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State Water Board official delegated authority to approve or reject projects will provide the recipient with a funding determination. For approved projects requiring execution of a written funding agreement, funds can be expended on the project from the date specified in the project approval provided to the recipient, subject to any conditions in the approval. Funds cannot be reimbursed to the recipient until a funding agreement between the State Water Board and recipient has been executed. A standard template for a grant agreement can be found at:

http://www.waterboards.ca.gov/water_issues/programs/grants_loans/caa/dw_droughtfund/.

Potential applicants are advised to review the standard conditions and ensure their organization can abide by them, since the standard conditions will not be changed.

DISCLAIMER:

The State Water Board reserves the right to modify these guidelines, or make specific exceptions for specific projects, and may consult with appropriate stakeholder groups, as necessary to effectively implement funding subject to these Guidelines. Per WC Section 13442(e) and Item 3940-101-0679 of Section 2.00 of the Budget Act of 2016, the development of these guidelines is not subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The most recent guidelines will be used for evaluation of a request for funding.